

## Sales/Use/Indirect:

### Kentucky Supreme Court Overturns Appellate Court to Hold that Manufacturer Purchased Exempt Supplies

*Case No. 2021-SC-0300-DG, Ky. (12/15/22).* The Kentucky Supreme Court (Court) overturned the Kentucky Court of Appeals and Franklin Circuit Court to hold that certain tangible personal property at issue purchased by an aluminum manufacturer constituted sales and use tax-exempt supplies consumed within its manufacturing process rather than taxable repair, replacement, or spare parts. In doing so, the Court considered the facts and reasoned that the items at issue (*e.g.*, anode stubs, inductotherm lining, thermocouples and tube assemblies, and welding wire and industrial gases) had a useful life of less than one year, qualifying them as exempt items that the manufacturer “inevitably, regularly, and/or frequently buys to maintain the manufacturing process,” rather than taxable items that maintain, restore, mend or repair solid machinery or equipment “of a long-term or permanent nature and which does not necessarily have a known, limited useful life.” A concurring opinion follows. Please contact us with any questions.

**URL:**  
<https://appellatepublic.kycourts.net/api/api/v1/publicaccessdocuments/44722335191c8851375b739e6e024f52984711aee29f9953c6a67cf06ca062bc/download>

— Brian Hickey (Cincinnati)  
Managing Director  
Deloitte Tax LLP  
bhickey@deloitte.com

Joe Garrett (Birmingham)  
Managing Director  
Deloitte Tax LLP  
jogarrett@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at [www.deloitte.com](http://www.deloitte.com).